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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Pay Telephone	)	
Reclassification and Compensation	)	**CC Docket No. 96-128**
Provisions of the Telecommunications	)	**File No. NSD-L-99-34**
Provisions of the	)	
Telecommunications Act of 1996	)	

COMMENTS OF MCI WORLDCOM, INC.

I. Introduction

In its Notice in the above-captioned proceeding, the Commission asked parties to comment on issues raised by the Petition for clarification filed by the RBOC/GTE/SNET Payphone Coalition (Coalition).[1] MCI WorldCom, Inc., (MCI WorldCom) takes this opportunity to respond to the issues raised by the Coalition, and urges the Commission to reject the Coalition's recommendations. Its recommendations are without foundation.

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[1]Petition for Clarification, (*Petition*) RBOC/GTE/SNET Payphone Coalition, CC Docket No. 96-128, February 26, 1999.

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II. Background

Current Commission rules require carriers, that have the ability to determine whether a call has been completed, to pay per call compensation for completed "dial-around" or "subscriber" payphone calls whether the carrier is the underlying wholesaler or a reseller.[2] The Commission placed compensation responsibility on the facilities-based carrier that has the ability to determine whether a call originated from a payphone, whether an access code has been used to make the call, and whether a payphone call has been completed.[3] The Commission did not condition the payment obligations of facilities-based resellers on their willingness to track calls, or on their having notified the underlying wholesaler of their willingness to track calls. The Commission was clear that the carrier capable of determining both whether a call is made from a payphone and whether the call is completed to the end user, is responsible for payphone compensation. The Commission recognized that facilities-based resellers would incur tracking costs associated with the payment of per call compensation. They could implement their own per-call tracking systems, or contract out this task.[4] But all facilities-based resellers that have the capability of determining if the call originated from a payphone, whether the call was made using an access code, and whether the call was completed to the called party and billed to the end user are unconditionally obligated to track and pay per call compensation.

The Coalition proposes to assign responsibility for payment of per call compensation for

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[2] Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, *Order on Reconsideration,* CC Docket No. 96-128, FCC 96-439, Released November 8, 1996, at ¶ 92.

[3] Id. See also 47 C.F.R. § 64.1300(a).

[4] *Order on Reconsideration* at ¶ 93.

"dial-around" or "subscriber" calls made from payphones to the Carrier Identification Code (CIC) used to route calls from the LEC to the IXC network.[5] The Coalition provides two economic and policy justifications for proposing this action: 1) PSPs are unable to collect their payphone compensation revenues from facilities-based resellers because the underlying wholesale carrier does not, or cannot, account for the specific calls they pass to facilities-based resellers; and 2) assigning per-call compensation obligations to the CIC assignee would "improve the efficiency of the per-call compensation mechanism [by relying] ... on existing network structures to assign payment obligations.[6] Neither justification withstands scrutiny.

III. There is No Revenue Shortfall — PSPs are Able to Collect Revenues

The Coalition is incorrect that PSPs are unable to collect payphone compensation from facilities-based resellers. So long as underlying wholesellers provide lists of the resellers that are facilities-based, along with contact names and numbers,[7] PSPs will be able to contact the facilities-based resellers that have payphone compensation obligations. PSPs will use the same process they currently use when they seek reimbursement from facilities-based wholesale carriers.[8]

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[5]*Petition* at 4.

[6]Id.

[7]Provision of these lists must be subject to non-disclosure agreements to ensure that the PSP does not utilize competitively sensitive information for any purpose other than contacting the facilities-based reseller for per call compensation.

[8]The Coalition does not contend that wholesale carriers are not fully compensating PSPs for calls that actually terminate on the facilities the wholesale carriers use. They simply desire underlying carriers to be responsible for compensating them for calls that do not terminate on the facilities the underlying carriers use. MCI WorldCom understands the Coalition's desire to have underlying carriers shoulder the responsibility of facilities-based resellers, but the failure of underlying carriers to comply with the Coalition's desire, which itself directly contradicts existing Commission rules, is not an evasion of their payment responsibilities, as the Coalition implies at

The Commission has already determined that the underlying wholesale provider is responsible for compensating only those calls they have verified as completed payphone calls.[9] Similarly, facilities-based resellers are responsible for compensating only those calls made from payphones they have verified as completed calls. The Coalition expects the underlying carrier to not only track and reconcile potential payphone calls for those calls for which it has the facilities capable of handling this task, it expects underlying carriers to also reconcile potential payphone calls with completed calls where another carrier controls the facilities needed to perform this task.[10]

The revenue shortfall presented by the Coalition is nothing but a symptom of the Coalition's limited willingness to approach facilities-based resellers for compensation. PSPs are able to collect compensable revenues once they begin the process of contacting each facilities-based IXC capable of tracking potentially compensable payphone calls. It is not necessary for each PSP to separately approach each IXC. They may, and indeed currently do, use aggregators that submit compensable calls for each member PSP for IXC review.[11] The Coalition insists that PSPs should not be required to incur costs in order to collect 100 percent of their accounts

page 4 of its Petition.

[9]The Commission requires carriers to report the number of payphone compensable calls received by each carrier and the number of payees. See, Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, *Report and Order*, Released September 20, 1996, FCC 96-388, at ¶ 102.

[10]Petition at 3-4. "...the IXCs have only reported on the number of calls for which they have paid — they have not (and reportedly cannot) account for calls that they pass on to switch-based resellers."

[11]These aggregators include: APCC, Data Net Systems; Davel Communications Group, Inc.; Jaroth, Inc. dba Pacific Telemanagement; and NSC Telemanagement Services.

payable, arguing incomprehensibly, that "[t]he current per-call compensation regime shortchanges PSPs because it is based on the assumption — an assumption that no party can defend — that PSPs collect 100 percent of the per-call compensation due to them from IXCs."[12]

The "assumption" is very easy to defend. The Commission defends its decision that PSPs bear some of the cost associated with the administration of per call compensation by correctly pointing out that the PSP is one of the primary beneficiaries of payphone calls.[13] IXCs and PSPs both bear costs in order to comply with the Commission's payphone compensation rules. PSPs must approach each facilities-based carrier (both wholesaler and reseller) with their list of compensable ANIs. Interexchange carriers (wholesalers and facilities-based resellers) must implement mechanisms that track all calls that have the potential of being compensable payphone calls. Carriers then must determine which of the calls they have tracked that are potentially compensable, are indeed payphone calls, rather than restricted calls, and have also been completed to the called party. The Coalition fails to offer any argument why PSPs should be able to pass part of their business costs, their collection costs, to an industry party already saddled with the lion's share of the cost associated with the administration of per call compensation.

B. CIC Assignment Fails to Improve Administrative Efficiency

The Coalition suggests the Commission assign responsibility for per call compensation according to the carrier identified with the CIC that is associated with a payphone compensable call. They argue that this would "improve the efficiency of the per-call compensation mechanism

[12]*Petition* at 2.

[13]*Order on Reconsideration* at ¶ 100.

[by relying] ... on existing network structures to assign payment obligations.[14] The Coalition attributes the efficiency improvement to the fact that the CIC assignee is unique and observable to the PSP, permitting the PSP to know which carrier to approach for every call made from one of its payphones.[15]

It is not clear how this proposal will reduce the PSP's billing and collection cost, let alone result in an efficiency improvement for the industry. PSPs might claim that their collection costs have increased as a result of disputes between wholesale carriers who identify a reseller as facilities-based and resellers who dispute that they are facilities-based. However, the CIC proposal will not necessarily reduce disputes between wholesale and resale carriers regarding the facilities-basis of the reseller because these disputes should arise infrequently. Underlying wholesellers can identify facilities-based resellers to whom they lease facilities based on the service purchased by the reseller. If the service includes use of a switch, the reseller is facilities-based, and subject to payphone compensation for compensable calls sent with verified payphone ANIs for which the reseller billed its own customers. Whatever disputes do arise should be easy to resolve. So the pool of administrative costs that can be saved associated with this problem is quite limited.

A much larger arena of difference, disputes arising from discrepancies between calls made from the PSP's phone and calls verified as completed will endure regardless of the method used to identify the party responsible for payphone compensation. In fact, the CIC proposal would increase payphone compensation administration expenses associated with these disputes. Take

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[14]*Petition* at 4.

[15]Id.

the case of resellers that have CICs but are not facilities-based. Currently, the PSP would directly approach the underlying carrier for compensation. The wholesale carrier is the carrier that performs the tracking of calls, and is in the best position to resolve disputes concerning discrepancies between the count of calls made from the payphone and calls completed. The CIC proposal would complicate the resolution of such disputes. Under the CIC plan, the PSP would approach the reseller. At that point, the reseller would have to make special requests of the underlying carrier regarding the process by which the underlying carrier determined that a call was completed, in order for the pure reseller to resolve disputes with PSPs over completed calls.

The CIC proposal would also add administrative costs to wholesale carriers that lease facilities to resellers that do not have their own CICs. Under the CIC proposal, the underlying wholesale carrier would be responsible for remitting payphone compensation to the PSP for calls terminated on facilities used by these resellers. Presumably the underlying carrier would have to surcharge the facilities-based reseller. However, unlike the surcharges wholesale carriers currently make to non-facilities-based resellers, they would not know how many completed calls for which to surcharge. The underlying carrier would have to take the list of numbers provided by the PSP to the facilities-based reseller (the party that has done the tracking of completed calls, uncompleted calls, and calls coded with payphone specific digits) and request the reseller to verify whether a call was actually completed, and whether a call on the PSPs list had a payphone specific infodigit passed. Under current rules, the PSP would directly take its list of ANIs to the facilities-based reseller, the carrier that actually tracks completed calls, a much more efficient method of payphone compensation.

The Coalition argues that its CIC proposal would permit PSPs to have immediate access to the identity and contact information for the IXC assigned compensation responsibility. However, underlying carriers are already providing contact names and numbers for facilities-based resellers. The Coalition might argue that using CICs grants them more accurate identity and contact information, but offers no discussion of this possibility. There is reason to believe PSPs will have problems accurately identifying carriers and efficiently locating the party responsible for payphone compensation via the Commission's Carrier Locator Report. Once a PSP has the CIC it can obtain the identity of the carrier and turn to the Commission's Carrier Locator Report to obtain a contact address and phone number. But, the Commission acknowledges: "[i]t may be difficult to locate a particular carrier in the tables."[16] Moreover, since the names and addresses associated with CICs in the Locator Report are reported annually, the CIC will not identify carriers that have gone out of business, have renamed themselves, or moved between the time carriers submit name and address information associated with its CIC to the Commission and the time the PSP submits the call to the carrier for compensation, a period that can be as long as one year.

IV. Conclusion

Two years after the Commission determined that it would be more equitable and efficient to assign payphone compensation responsibility on facilities-based resellers because they had the ability to track payphone calls, the Coalition asks the Commission to reconsider its decision. The Coalition's evidence that this decision is unworkable, actually is a symptom of PSPs' unwillingness to incur the administrative expense necessary to collect the revenues they are owed,

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[16]Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, Carrier Locator: Interstate Service Providers, January 1999, at 3.

even though they are one of the primary beneficiaries of payphone calls. The Coalition's alternative offers no evidence of reducing administration costs of PSPs, but would increase the administrative costs of wholesale carriers and non-facilities-based resellers. The Coalition's proposal fails to offer any public benefits, and should be rejected.

Respectfully submitted,

Lawrence Fenster
Senior Economist

May 15, 1999

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on May 17, 1999

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